

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Edward J. Kaplan

Serial No.: 10/665,793

Art Unit: 1618

Filed: September 19, 2003

Examiner: Jagadishwar Rao Samala

For: *FLEXIBLE AND/OR ELASTIC BRACHYTHERAPY SEED OR STRAND*

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**SUBMISSION OF EVIDENCE OF COMMERCIAL SUCCESS SUBSEQUENT
TO AMENDMENT AND RESPONSE**

Sir:

Further to the telephone conversation between the Examiner and Yvonne Shyntum on August 20, 2008, the Amendment and Response filed on May 16, 2008, and in response to the Office Action mailed on January 16, 2008, attached is a press release, submitted as evidence of commercial success of the claimed seed for implantation.

It is believed that no fee is required with this submission. However, should a fee be required, the Commissioner is hereby authorized to charge the fee to Deposit Account No. 50-3129.

Remarks

Applicant wishes to thank the Examiner for the telephone conversation with Yvonne Shyntum on August 20, 2008, during which the Examiner indicated that the attached evidence would be considered in determining the non-obviousness of the claims over the cited art.

The attached material relates to the increased demand for and success of the claimed seed following its introduction into the marketplace. This evidence, not supported by an expensive advertising or well known corporate campaign or big name speakers, merely by the long felt need for such devices and the success immediately observed by those in the field, overwhelming demonstrates the non-obviousness of the claimed subject matter.

Favorable consideration and allowance of claims 36-55 is respectfully solicited

Should there be any remaining issues the undersigned requests an interview with the examiner, his supervisor and a quality control specialist to resolve these issues.

Respectfully submitted,

/Patrea L. Pabst/
Patrea L. Pabst
Reg. No. 31,284

Date: August 25, 2008

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